

REMARKS

Claims 12-18 and 27-33 were pending in the application, prior to the amendment filed on June 9, 2006, in response to an Office Action mailed on February 15, 2006. Claims 12, 16, 27, 29, 31, and 32 had been withdrawn from consideration, leaving claims 13-15, 17, 18, 30, and 33 subject to examination.

In response to the Office Action mailed on February 15, 2006, Applicants canceled the pending claims and replaced them with claims specifying very particular material that is new and non-obvious over the prior art, and which had been found by Applicants to have unexpected, beneficial properties (see, e.g., Figures 2A and 2B of the present application). Applicants requested that the prior Restriction Requirement in this case be reconsidered because, since the filing of the application, ownership of the application had changed and the present owners had only recently studied the application in detail, and had only then identified very specific material that they would like to claim. Further, the submitted claims were drafted with the cited prior art under close consideration, to enable straightforward and rapid prosecution.

Notwithstanding, the Examiner deemed Applicants' prior reply as non-responsive, stating that the newly added claims are drawn to a non-elected invention. In response, Applicants have now amended the prior-submitted claims to conform with the prior elected restriction group, and request further examination of the presently amended claims. As is noted above, the new claims fall within the elected restriction group, Group IV. The claims also include sequences that encompass the elected species (KLVFF; His-His-Gln-Lys-Leu-Val-Phe-Phe-Ala-Glu and Val-His-His-Gln-Lys-Leu-Val-Phe-Phe-Ala). Applicants respectfully request that the other sequences specified in the claims (His-Gln-Lys-Leu-Val-Phe, His-His-Gln-Lys-Leu-Val-Phe,

Val-His-His-Gln-Lys-Leu-Val-Phe, Tyr-Glu-Val-His-His-Gln-Lys-Leu-Val-Phe, and Gly-Tyr-Glu-Val-His-His-Gln-Lys-Leu-Val) be examined in this application, upon a determination that claims specifying the elected species are allowable.

In the interest of completion, the rejections raised in the February 15th Office Action are now addressed as they pertain to the newly added claims.

The claims were rejected under 35 U.S.C. § 102(e) as being anticipated by Findeis et al., U.S. Patent No. 5,854,204, on the basis that this patent describes a peptide with the sequence KLVFF. The Findeis patent is not relevant to the newly added claims for the following reasons.

First, Applicants note that the present claims specify peptides of a particular formula, which does not allow for the presence of amino acid sequences in addition to those specifically listed in the claim. Thus, peptides consisting of the sequence KLVFF, as taught by Findeis, are not within the scope of the present claims. Further, Applicants note that the only peptides specified in the present claims that include the sequence KLVFF, which are His-His-Gln-Lys-Leu-Val-Phe-Phe-Ala-Glu and Val-His-His-Gln-Lys-Leu-Val-Phe-Phe-Ala, require the presence of other amino acids as well. These peptides, as noted above, are new and non-obvious chemical entities, which the present inventors have shown have unexpected, beneficial properties (see, e.g., Figure 2A of the present application).

Applicants have scrutinized the teachings of the Findeis patent, to ensure that the peptides of the present claims are not taught in the patent. Thus, Applicants respectfully submit that a rejection under § 102(e) should not be made with respect to the present claims.

CONCLUSION

Applicants note that the Form PTO 1449 that was submitted with an Information Disclosure Statement filed on November 26, 2003 and returned in the Office Action February 15, 2006, has not been fully initialed. Specifically, Applicants respectfully request confirmation that the documents listed under the section 'Foreign Patent Documents' were considered, and that the Form PTO 1449 be initialed with respect to the foreign patent documents and returned to us.

Applicants submit that the claims are in condition for allowance, and such action is respectfully requested. If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

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